

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN WELLS FARGO HOME MORTGAGE
OVERTIME PAY LITIGATION

MDL Case No. MDL-1770 MHP

This document Relates To:

JASON MEVORAH v. WELLS FARGO
HOME MORTGAGE, INC.

**[PROPOSED] ORDER RE
NOTICE OF CLASS PENDENCY**

1. The Court hereby appoints Rust Consulting, Inc. as the administrator for handling
2 notice to the California class. Plaintiffs' counsel shall be responsible for the prompt payment to
3 Rust of all costs associated with the printing, address checking, and mailing of the class notice as
4 well as the costs of receiving, compiling, and reporting all exclusions from the class.

5. On or before December 18, 2007, Wells Fargo Home Mortgage shall cause to be
6 delivered to Rust Consulting and to class counsel a computer database in readily readable form
7 that contains the names and addresses of all Home Mortgage Consultants employed in California
8 by the Defendant at any time since February 12, 2001. The database provided to Rust Consulting
9 shall also include the Social Security numbers of those employees. Rust Consulting and class
10 counsel shall be responsible for maintaining the integrity and privacy of all such data provided.

11. Upon receipt of the class data, Rust Consulting shall promptly run all the names of
12 putative class members through the National Change of Address Database and also perform a
13 computer locator update search with respect to all putative class members. If more than one
14

1 address exists for a class member, Rust shall cause notice to be sent to that class member at all
2 addresses.

3 4. The Court approves the form of notice and exclusion form attached hereto as
4 Exhibit A. The Court finds that notice by first class mail is the most effective form of notice
5 when supplemented by address update searches.
6

7 5. On or before January 7, 2008, Rust Consulting shall mail to all putative class
8 members, via first class mail, the class notice and exclusion form attached hereto as Exhibit A.
9 Rust Consulting shall maintain a database indicating the names of all class members to whom
10 such notice is mailed and all the addresses where sent.

11 6. If notices are returned to Rust Consulting as undeliverable, Rust shall make further
12 efforts to locate better addresses using computer search databases and re-mail to new addresses
13 found.
14

15 7. Rust shall receive and retain all requests for exclusion and, at the close of the
16 exclusion period, March 22, 2008, shall promptly transmit to this Court, to defense counsel, and
17 to class counsel a list of all persons who timely filed Exclusion Forms, along with copies of those
18 Exclusion Forms.

19 8. By April 14, 2008, Rust Consulting shall furnish this Court with a declaration
20 attesting that the foregoing directives have been complied with and detailing specifically the
21 number of notices mailed, the number of re-mails, the number of exclusions from the class, and
22 any other pertinent data.
23

24 Dated: June 6, 2008
25

26 NUNC PRO TUNC
27



1 **PROOF OF SERVICE**

2 **Jason Mevorah v. Wells Fargo Home Mortgage, et. al**
3 **United States District court, Northern District of California**
4 **MDL: 06-1770 (Case No. 05-01175 MHP)**

5 I, the undersigned, declare as follows:

6 I am employed in the County of Washoe, State of Nevada.

7 I am over the age of eighteen (18) years and not a party to the within action; my business address
8 is 18124 Wedge Parkway, #503, Reno Nevada, 89511.

9 On April 21, 2008, I served the foregoing document(s) described as:

- 10 1. [Proposed] Order re Notice of Pendency
11 2. Supplemental Notice of Lodging of [Proposed] Order re Notice of Pendency

12 on all interested parties in this action addressed to the addressee as follows:

13 H. Tim Hoffman
HOFFMAN & LAZEAR
hth@hoffmanandlazear.com

14 Lindbergh Porter, Jr.
LITTLER MENDELSON
lporter@littler.com

15 Charles Russell
CALLAHAN, MCCUNE & WILLIS
charles_russell@cmwlaw.net

16 George A. Hanson
STUEVE, SIEGEL, HANSON & WOODY, LLP
hanson@stuevesiegel.com

17 XX By CM/ECF. I electronically transmitted the attached document to the Clerk's Office using
18 the CM/ECF system for filing and transmittal of a Notice of Electronic Filing to the above
19 CM/ECF registrant(s).

20
21 I declare under penalty of perjury under the laws of the State of California that the above
22 is true and correct.

23 Executed on April 21, 2008, at Reno, Nevada.

24
25 /s/ Jennifer Smith
26 Jennifer Smith
27
28

Exhibit A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN WELLS FARGO HOME MORTGAGE
OVERTIME PAY LITIGATION

This document Relates To:

JASON MEVORAH v. WELLS FARGO
HOME MORTGAGE, INC.

MDL Case No. MDL-1770 MHP

NOTICE OF CLASS ACTION

**IF YOU ARE OR WERE A HOME MORTGAGE CONSULTANT EMPLOYED IN
CALIFORNIA BY WELLS FARGO, PLEASE READ THIS NOTICE. A CLASS
ACTION MAY AFFECT YOUR LEGAL RIGHTS.**

- Home Mortgage Consultants in California (also referred to as “HMCs”) have sued Wells Fargo, claiming that Wells Fargo should have classified HMCs as “non-exempt” employees and that HMCs should therefore have been paid overtime and compensated for any missed meal and/or rest breaks.
- On October 18, 2007, the Court certified this matter as a class action.
- In certifying this action as a class action, the Court has not expressed any opinion as to the validity of the claims raised in the case. The Court has, however, decided that the case will go on procedurally as a class action.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
IF YOU WANT TO PARTICIPATE IN THE STATE LAW CLASS	<p>If you want to participate in the California Class, then <u>you do not need to do anything</u>. You will automatically be included in the California Class unless you timely file a YELLOW exclusion form.</p> <p>If you choose to be included in the California Class, you keep the possibility of getting money or benefits that may come from a trial or a settlement of the California state law claims, you will be bound by the results, whether favorable or unfavorable, and you give up any rights to separately sue Wells Fargo about the same legal claims in this lawsuit.</p>

IF YOU DO NOT WANT TO PARTICIPATE IN THIS CASE AT ALL	If you do not want to participate in this case at all, then <u>you must complete the YELLOW exclusion form at the end of this Notice and return it by March 22, 2008.</u> By mailing in the YELLOW exclusion form, you give up the possibility of getting money or benefits that may come from a trial or settlement of any of the claims in this lawsuit. You will not be bound by the results of the suit, whether favorable or unfavorable. You keep any rights to sue Wells Fargo separately about the same legal claims in this lawsuit, but the limitations period on your claim continues to run.
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1. WHY SHOULD I READ THIS NOTICE?

The purpose of this Notice is to inform you that your rights may be affected by the proceedings in a class action lawsuit pending before the Hon. Marilyn Hall Patel of the United States District Court, Northern District of California (the “Court”). This Notice is given by Order of the Court.

2. WHAT IS THE LITIGATION ABOUT?

A lawsuit has been filed against Wells Fargo (herein referred to simply as “Wells”) on behalf of former and current commissioned Home Mortgage Consultants who have worked in California. The case seeks recovery of overtime pay which plaintiffs contend is owed to all present and former Home Mortgage Consultants who worked in California at any time since February 10, 2001. Plaintiffs also seek recovery for unpaid meal and rest periods, interest, costs, waiting time penalties and attorneys’ fees. Plaintiffs have not challenged the commission form of compensation. Wells, on the other hand, contends that its Home Mortgage Consultants have always been properly classified as exempt, and, as such, has no obligation to pay HMCs overtime compensation, compensation for missed breaks, or any other form of compensation.

3. WHAT IS A CLASS ACTION?

A class action is a type of lawsuit in which one or a few named plaintiffs bring suit on behalf of all the members of a similarly situated group to recover damages for all members of the group, without the necessity of each member filing an individual lawsuit or appearing as an individual plaintiff. Class actions may be used by courts where the claims appear to raise issues of law or fact that are common to all members of the class, thereby making it fair to bind all class members to the orders and the judgment in the case, without the necessity of filing multiple lawsuits, and assures that all class members are bound by the results of a single lawsuit. As a member of the class, you may be required to provide testimony or evidence at deposition or trial.

4. WHAT RECOVERY DOES THE ACTION SEEK?

Recovery will depend upon plaintiff successfully proving both an entitlement to overtime pay, and the fact of overtime having been worked by the class. If successful, plaintiffs will seek to recover overtime compensation for all members of the class, plus interest.

5. WHAT ARE MY RIGHTS IN REGARD TO THIS MATTER?

If you wish to remain as a member of this class and have your interests represented by the class counsel appointed and approved by the Court, you need do nothing at this time. You will receive further notices as the case progresses. You may also retain an attorney to represent you within the class action.

You may choose to exclude yourself from this class action. If you exclude yourself, you will receive no benefits from any judgment or settlement obtained by the class and you will not be bound by the result. However, if you exclude yourself from this lawsuit, you remain free to pursue individually any legal rights you may have against Wells. In other words, if you exclude yourself, or "opt-out," you can, if you wish, file an individual lawsuit against Wells. If you elect to exclude yourself from the class, the statute of limitations for any of these claims may begin to run again from the date the request for exclusion form is postmarked. Consult an attorney to advise you as to the applicable statute of limitations.

If you wish, the Court will exclude you from the class if your request is postmarked by March 22, 2008. If you wish to be excluded from the class, you must send the enclosed YELLOW exclusion form to the court appointed administrator below:

Rust Consulting, Inc.
625 Marquette Avenue, Suite 880
Minneapolis, MN 55402-2469

If you do not choose to exclude yourself from the class, any judgment rendered, whether favorable or not, will be binding upon you. If you do not choose to exclude yourself from the class, you may, if you so desire, enter an appearance through counsel of your choice.

6. WHO REPRESENTS THE CLASS?

Jason Mevorah has been approved by the Court to act as the class representative. He is a former employee of Wells who was employed in California as a commissioned Home Mortgage Consultant.

The following attorneys are representing the class:

McInerney & Jones

Kevin J. McInerney
Kelly McInerney
Charles A. Jones
18124 Wedge Parkway #503
Reno, NV 89511
Phone: (775) 849-3811
Toll Free: (800) 849-6760
Fax: (775) 849-3866

Hoffman & Lazear

H. Tim Hoffman
Arthur W. Lazear
Morgan M. Mack
180 Grand Avenue, Suite 1550
Oakland, CA 94612
Phone: (510) 763-5700
Toll Free: (800) 321-5297
Fax: (510) 835-1311

7. WHAT FEES AND COSTS ARE INVOLVED?

In class actions, counsel who generate a monetary recovery for the benefit of a class are entitled to an award of reasonable attorneys' fees and costs. Class Counsel will make a request to the Court for attorneys' fees and costs, to be paid from any judgment or settlement funds. All applications for attorneys' fees and expenses are subject to Court approval. Class members may participate in any ultimate judgment or settlement without incurring any out-of-pocket costs.

8. WHAT DO I NEED TO DO NOW?

If you wish to remain a member of the class, and share in the results of any settlement reached or judgment obtained, you need do nothing at this time. Class Counsel will be preparing this matter for trial and you may contact them to have questions answered. If you would prefer to be excluded from the class, please follow the instructions set forth in paragraph 5 of this notice.

9. PROHIBITION AGAINST RETALIATION

California law prohibits retaliation by an employer against any person who participates in or assists in the litigation of an overtime lawsuit, such as this one. Whichever option you choose will in no way affect your employment relationship with Wells.

PLEASE DO NOT ADDRESS ANY QUESTIONS TO THE COURT

Date: January 7, 2008

Judge Marilyn Hall Patel
United States District Court Judge
Northern District of California

“EXCLUSION” FORM

IF YOU DO NOT WISH TO PARTICIPATE IN THE MEVORAH HMC CLASS ACTION,
SIGN BELOW AND RETURN IN THE ENCLOSED ENVELOPE TO:

RUST CONSULTING
625 Marquette Avenue, Suite 880
Minneapolis, MN 55402-2469.

The undersigned, _____, hereby elects to be excluded from the
[print name]
Mevorah Home Mortgage Consultants Class Action (No. MDL- 06-1170 MHP) in accordance
with the provisions of the Notice of Class Action.

Dated: / /2008

Name _____

Street Address

City **State** **Zipcode**